

FILED

STATE OF NORTH CAROLINA
WAKE COUNTY

2019 OCT 29 AM 11:38

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
19 CVS 012667

WAKE CO., C.S.C.

REBECCA HARPER, *et al.*)
Plaintiffs,)
v.)
Representative DAVID R. LEWIS,)
in his official capacity as Senior)
Chairman of the House Standing)
Committee on Redistricting, *et al.*,)
Defendants.)

ORDER

THIS MATTER came before the undersigned Three-Judge Panel upon the Motion to Intervene filed by Intervenor Applicants Ted Budd, Virginia Foxx, and Richard Hudson (hereinafter "Intervenor Applicants") pursuant to Rule 24 of the North Carolina Rules of Civil Procedure. Intervenor Applicants desire to intervene in this matter as defendants.

In this litigation, Plaintiffs seek a declaration that the North Carolina Congressional maps passed in 2016, violate the rights of Plaintiffs and all Democratic voters in North Carolina under the North Carolina Constitution. Plaintiffs seek to enjoin the future use of the 2016 congressional districts.

Procedural History

On September 27, 2019, Plaintiffs filed a verified complaint in Superior Court, Wake County. On September 30, 2019, Plaintiffs filed a motion for a preliminary injunction seeking to bar Defendants from administering, preparing for, or moving forward with the 2020 primary and general elections in North Carolina for the United States House of Representatives using the 2016 congressional districts. On September 30, 2019, this action

was assigned to the undersigned panel by the Chief Justice of the Supreme Court of North Carolina.

On October 9, 2019, Intervenor Applicants filed their Motion to Intervene pursuant to Rule 24 of the North Carolina Rules of Civil Procedure, accompanied by a pleading setting forth the claim or defense for which intervention is sought. Plaintiffs oppose the motion. This matter came on for hearing on October 24, 2019.

Motion to Intervene

“Intervention in North Carolina is governed by statute. Rule 24 of the North Carolina Rules of Civil Procedure determines when a third party may intervene as of right or permissively.” *Virmani v. Presbyterian Health Servs. Corp.*, 350 N.C. 449, 458, 515 S.E.2d 675, 682 (1999). Permissive intervention in an action is provided by Rule 24(b), which states that “[u]pon timely application anyone may be permitted to intervene in an action” “[w]hen an applicant’s claim or defense and the main action have a question of law or fact in common.” N.C.G.S. § 1A-1, Rule 24(b)(2). Permissive intervention “rests within the sound discretion” of the court, *Virmani*, 350 N.C. at 460, 515 S.E.2d at 683, and “[i]n exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties,” N.C.G.S. § 1A-1, Rule 24(b)(2).

As an initial matter, the Court considers Intervenor Applicants’ Motion to be timely made. The Motion was filed within two weeks of Plaintiffs filing their Complaint and before any responsive pleadings had been filed.

As to the substance of Intervenor Applicants’ Motion, the Court finds that Intervenor Applicants’ claim or defense has a question of law or fact in common with the main action. Intervenor Applicants are representatives of the challenged districts, candidates for

reelection in those districts, and registered Republican voters in those districts. The Court also finds that intervention by these Intervenor Applicants at this early stage of the litigation will not unduly delay or prejudice the adjudication of the rights of the original parties in this action.

For the foregoing reasons, Intervenor Applicants are hereby granted, at the Court's discretion, permissive intervention under Rule 24(b), without conditions. Intervenor Applicants shall file an Answer to Plaintiffs' Complaint within five (5) days of the entry of this order.

So ORDERED this 28th day of October, 2019.

/s/ Paul C. Ridgeway

Paul C. Ridgeway, Superior Court Judge

/s/ Joseph N. Crosswhite

Joseph N. Crosswhite, Superior Court Judge

/s/ Alma L. Hinton

Alma L. Hinton, Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon the parties by emailing a copy thereof to the address below, in accordance with the October 10, 2019 Case Management Order:

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This the 29th day of October, 2019.



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